

1 PAUL MITCHELL,

2 No. C 11-02705 SBA (PR)

3 Petitioner,

4 v.

5 ANTHONY HEDGEPETH, Warden,

6 Respondent.

7 **ORDER GRANTING PETITIONER A**  
**FOURTH EXTENSION OF TIME TO**  
**FILE HIS OPPOSITION TO MOTION TO**  
**DISMISS; DENYING HIS OTHER**  
**PENDING MOTION AS MOOT; AND**  
**DENYING HIS SECOND MOTION FOR**  
**APPOINTMENT OF COUNSEL**

8 / (Docket nos. 26, 35, 38)

9 Before the Court is Petitioner's motion entitled, "Order to Show Cause for a Preliminary  
10 Injunction" (docket no. 26), which will be construed as a motion for an order allowing him access to  
11 the Salinas Valley State Prison (SVSP) law library. He also requests a fourth extension of time in  
12 which to file his opposition to Respondent's Motion to Dismiss.

13 Petitioner's opposition to Respondent's Motion to Dismiss is presently overdue. The Court  
14 has granted Petitioner three prior extensions of time to file his opposition because he initially  
15 informed the Court that lockdowns at SVSP prevented his access to the law library.

16 On December 27, 2012, Petitioner filed a motion for an order directing the California  
17 Department of Corrections and Rehabilitation to allow him physical access to the SVSP law library  
18 (docket no. 26).

19 In an Order dated February 15, 2012, the Court directed Respondent to respond to  
20 Petitioner's motion for an order allowing him access to the SVSP law library.

21

1       On February 27, 2012, Respondent filed his response. In that response, Respondent  
2 informed the Court that Petitioner had been transferred from SVSP to the R. J. Donovan  
3 Correctional Facility (RJDCF) on February 8, 2012. Respondent claims that, "[s]ince [Petitioner] is  
4 no longer housed at SVSP, his motion for an order allowing him access to the SVSP law library is  
5 now moot." (Feb. 27, 2012 Resp. at 1.) Respondent adds that "[P]etitioner has access to yard on  
6 Mondays, Tuesdays, and Fridays" and that he "should be able to go to the law library on those days."  
7 (*Id.* at 1-2.)

8       In Petitioner's declaration attached to his aforementioned motion for appointment of counsel,  
9 he acknowledges that he has since been transferred to RJDCF; however, he claims that his legal  
10 property has not yet arrived from SVSP. (Pet'r Decl. at 4.)

11      Accordingly, the Court DENIES as moot Petitioner's motion for an order allowing him  
12 access to the SVSP law library (docket no. 26); and GRANTS him a fourth extension of time in  
13 which to file his opposition to Respondent's Motion to Dismiss. The time in which Plaintiff may file  
14 his opposition will be extended up to and including **twenty-eight (28) days** from the date of this  
15 Order.

16      Respondent shall file a reply brief no later than **fourteen (14) days** after the date Petitioner's  
17 opposition is filed.

18      Also before the Court is Petitioner's second motion for appointment of counsel to represent  
19 him in this action (docket nos. 35, 38). The Court previously denied Petitioner's first request for  
20 appointment of counsel. For the same reasons, Petitioner's second request for appointment of  
21 counsel is DENIED.

22      Finally, Daniel Paramo, the current acting warden of the prison where Petitioner is  
23 incarcerated, has been substituted as Respondent pursuant to Rule 25(d) of the Federal Rules of  
24 Civil Procedure.

25      This Order terminates Docket nos. 26, 35 and 38.

26      IT IS SO ORDERED.

27      Dated: 6/6/12

  
SAUNDRA BROWN ARMSTRONG  
UNITED STATES DISTRICT JUDGE

1  
2 UNITED STATES DISTRICT COURT  
3 FOR THE  
4 NORTHERN DISTRICT OF  
CALIFORNIA

5  
6  
7 PAUL MITCHELL,

8 Plaintiff,

9 v.

10 ANTHONY HEDGEPETH et al,

11 Defendant.

Case Number: CV11-02705 SBA

12  
13  
14  
15  
16  
17  
18  
**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 12, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

19 Paul Mitchell G-21965  
Richard J. Donovan Correctional Facility (RJD)  
20 California Department of Corrections and Rehabilitation  
P.O. Box 794004  
21 San Diego, CA 92179

22 Dated: June 12, 2012

Richard W. Wiking, Clerk  
23 By: Lisa Clark, Deputy Clerk